IT 2217 - Income tax deductions : medical appliances

This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

TAXATION RULING NO. IT 2217

INCOME TAX DEDUCTIONS : MEDICAL APPLIANCES

F.O.I. EMBARGO: May be released

REF H.O. REF: J35/567 Pt.13 81/5878 DATE OF EFFECT:

B.O. REF: DATE ORIG. MEMO ISSUED:

F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1199704	LOSSES & OUTGOINGS	51(1)
	REPAIRS	53(1)
	DEPRECIATION	54(1)

PREAMBLE From time to time the question arises of the extent to which taxpayers suffering from physical disabilities are entitled to income tax deductions for expenditure on medical appliances, e.g. wheelchairs, hearing aids, etc. used by them in the course of gaining or producing assessable income, e.g. in carrying out the duties of an employment.

RULING 2. Whether a claim for deduction is made under sub-section 51(1), as losses or outgoings incurred in gaining or producing assessable income or under sub-sections 53(1), and 54(1), as repairs to or depreciation of property used for the purpose of gaining or producing assessable income, the test for income tax deduction is essentially the same, i.e. the need to use the particular medical appliance must be brought about by the duties of employment. To put it another way, there must be something in the duties of employment which specifically requires the use of the medical appliance.

3. In a United Kingdom case of Norman v. Golder, reported in Vol. 1 1945 All E.R. at page 352, the Court of Appeal had to consider whether a professional shorthand writer was entitled to income tax deductions for medical expenses incurred due to illness caused by working in unfavourable conditions. The Court made these observations at page 354:

> "It is quite impossible to argue that a doctor's bills represent money wholly and exclusively laid out for the purposes of the trade, profession, employment or vocation of the patient. True it is that if you do not get yourself well and so incur expenses to doctors you cannot carry on your trade or profession, and if you do not carry on your trade or profession you will not earn an income, and if you do not earn an income the Revenue will not get any tax. The same thing applies to the food you eat and the clothes you wear. But expenses of that kind are not wholly and exclusively laid out for the purposes of the trade, profession or vocation. They are laid out in part for

> the advantage and benefit of the taxpayer as a living human being. Para (b) of the rule equally would exclude doctor's bills, because they are in my opinion, expenses of maintenance of the party, his family or a sum expended for a domestic or private purpose, distinct from the purpose of the trade or profession."

4. Although Australian income tax law differs from that in the United Kingdom the reasoning adopted by the Court of Appeal in the above quoted case is followed in Australia. Thus, in Hayley and Lunney v. FCT (1958) 100 CLR 478, the High Court held that the cost of travel to and from work was not an allowable income tax deduction. Similarly in Lodge v. F.C. of T. 72 ATC 4174, (1972) 3 ATR 254, the High Court held that child minding expenses were not an allowable income tax deduction. In both the cases the Court recognised that the expenditures were incurred for the purpose of earning assessable income and were an essential prerequisite to the derivation of that income. However, the expenditures were not incurred in the actual gaining of the assessable income and, for that reason, did not qualify for income tax deduction.

5. The same reasoning applies to expenses associated with the provision and maintenance of medical appliances. Claims for income tax deduction in respect of medical appliances have been considered by Taxation Boards of Review on a number of occasions. In Case P31 82 ATC 141; Case 96 25 CTBR (NS) 715, a quadriplegic law lecturer was not allowed an income tax deduction for depreciation, maintenance and insurance on a motorized wheelchair which he used 75% of the time in connection with his employment. Similarly, in Case Q17 83 ATC 62; Case 82 26 CTBR(NS) 556, a farmer was denied the cost of a hearing aid which he claimed was an essential tool in carrying on his business.

6. In both cases the Board found that the sole purpose of the wheelchair or hearing aid was to aid the taxpayer in overcoming his personal disability in order that he could earn his assessable income. The Board concluded that, although the taxpayer might be unable to earn his assessable income without the aid of the relevant appliance, the outlay on the appliance was not incurred in gaining assessable income or carrying on a business for that purpose, but rather was incurred to help overcome an unfortunate disability suffered by the taxpayer.

7. The principles emerging from the various decisions apply to similar situations where taxpayers are required to use some type of medical device or surgical appliance to overcome a physical disability. Accordingly, claims for income tax deductions under sub-sections 51(1), 53(1) and 54(1) in respect of expenses incurred on medical appliances, e.g. wheelchairs, hearing aids, spectacles, artificial limbs and similar appliances used by persons in carrying out the duties of an employment are not allowable. These classes of expenditure would normally qualify as medical expenses for concessional expenditure rebate purposes.

COMMISSIONER OF TAXATION
11 November 1985